



**COUNTY OF SAN LUIS OBISPO
DEPARTMENT OF PLANNING AND BUILDING
STAFF REPORT**

Tentative Notice of Action

Promoting the wise use of land

MEETING DATE May 15, 2015 EFFECTIVE DATE May 29, 2015	CONTACT/PHONE Airlin M. Singewald / (805) 781-5198 asingewald@co.slo.ca.us	APPLICANT AT&T / Randy Avila	FILE NO. DRC2013-00084				
SUBJECT Hearing to consider a request by AT&T / Randy Avila for a Minor Use Permit to legalize and modify an existing unpermitted unmanned wireless communications facility as follows: a) replace two existing 4' tall panel antennas with four new 6' tall panel antennas at a height of 27'-6" on an existing 43' tall power pole; b) install four new Remote Radio Units (RRUs) on the power pole; and c) install proposed ground equipment within a new 10' x 15' fenced lease area. The proposed project is within the Residential Rural land use category. The existing power pole, which will support the antennas and RRUs, is located within the Highway 1 right-of-way at the intersection with Randy Lane. The proposed lease area is located approximately 200' to the north on an adjacent parcel. The project is located on the Nipomo Mesa in the rural South County planning area.							
RECOMMENDED ACTION Approve Minor Use Permit DRC2013-00084 based on the findings listed in Exhibit A and the conditions listed in Exhibit B							
ENVIRONMENTAL DETERMINATION A Class 3 Categorical Exemption (pursuant to CEQA Guidelines 15303) was issued on March 27, 2015 (ED14-200).							
LAND USE CATEGORY Residential Rural	COMBINING DESIGNATION N/A	ASSESSOR PARCEL NUMBER 075-281-040	SUPERVISOR DISTRICT(S) 4				
PLANNING AREA STANDARDS None applicable <p style="text-align: center;"><i>Does the project meet applicable Planning Area Standards: N/A</i></p>							
LAND USE ORDINANCE STANDARDS 22.30.180 – Communication Facilities <p style="text-align: center;"><i>Does the project conform to the Land Use Ordinance Standards: Yes - see discussion</i></p>							
FINAL ACTION This tentative decision will become final action on the project, effective on the 15 th day following the administrative hearing, or on May 29, 2015, if no hearing was requested unless this decision is changed as a result of information obtained at the hearing or is appealed.							
EXISTING USES The site contains an existing unpermitted AT&T facility on a PG&E pole in the Highway 1 right-of-way. The private Avila parcel contains a single family home and agricultural uses.							
SURROUNDING LAND USE CATEGORIES AND USES <table style="width: 100%;"> <tr> <td style="width: 50%;"><i>North:</i> Residential Rural / residences, agriculture</td> <td style="width: 50%;"><i>East:</i> Residential Rural / residences</td> </tr> <tr> <td><i>South:</i> Residential Rural / residences</td> <td><i>West:</i> Agriculture / undeveloped</td> </tr> </table>				<i>North:</i> Residential Rural / residences, agriculture	<i>East:</i> Residential Rural / residences	<i>South:</i> Residential Rural / residences	<i>West:</i> Agriculture / undeveloped
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<i>South:</i> Residential Rural / residences	<i>West:</i> Agriculture / undeveloped						
ADDITIONAL INFORMATION MAY BE OBTAINED BY CONTACTING THE DEPARTMENT OF PLANNING & BUILDING AT: COUNTY GOVERNMENT CENTER γ SAN LUIS OBISPO γ CALIFORNIA 93408 γ (805) 781-5600 γ FAX: (805) 781-1242							

OTHER AGENCY / ADVISORY GROUP INVOLVEMENT: The project was referred to: Public Works, Environmental Health, Air Pollution Control District, Cal Trans, Cal Fire, and South County Advisory Council	
TOPOGRAPHY: Nearly level	VEGETATION: Eucalyptus trees
PROPOSED SERVICES: Water supply: N/A Sewage Disposal: N/A Fire Protection: Cal Fire	ACCEPTANCE DATE: February 27, 2015

DISCUSSION

Project History

The history on this project dates back to 2003 when AT&T (at that time called Cingular) applied for a minor use permit (D030043P) to install panel antennas and ground equipment on an existing PG&E utility pole in the Highway 1 right-of-way. While this permit was still under review, AT&T proceeded to construct and operate the facility. When questioned about the unpermitted construction, AT&T stated that the County's authority to require minor use permit approval for the facility was preempted by the California Public Utilities Commission and the CalTrans encroachment permit authorizing the facility. Staff disagreed and opened a code enforcement case, which was put on hold pending the Ninth Circuit Court of Appeals decision in Sprint Telephony PCS v. County of San Diego. Based partly on this decision, staff determined that communications facilities in the public right-of-way are subject to local permitting requirements and that this AT&T facility violated the County's land use ordinance due to lack of a minor use permit.

Proposed Project

AT&T applied for this minor use permit in April 2014 to legalize and upgrade the existing unpermitted facility as follows:

- Replacement of two existing 4' tall panel antennas with four new 6' tall panel antennas at a height of 27'-6" on an existing 43' tall power pole;
- Installation of four new Remote Radio Units (RRUs) on the power pole;
- Installation of proposed and relocated ground equipment within a new 10' x 15' fenced lease area, located approximately 200' to the north on an adjacent parcel;
- Installation of associated coaxial and fiber cables in an underground trench.

As conditioned, all equipment attached to the existing utility pole (e.g. antennas, RRUs, etc.) would be painted a non-reflective brown color to blend with the existing utility pole.

LAND USE ORDINANCE STANDARDS

Section 22.30.180 – Communications Facilities

This section of the ordinance describes specific permit and application content requirements as well as siting and design standards for proposed wireless communications facilities. The requirements of this section apply to communications transmission and receiving facilities in

addition to all applicable permit requirements and standards of the FCC. As described below, the proposed project meets these requirements:

Radio Frequency Analysis

Section 22.30.180(B) requires applications for communications facilities to provide estimates of non-ionizing radiation generated and/or received by the facility. These shall include estimates of the maximum electric and magnetic field strengths at the edge of the facility site and the extent that measurable fields extend in all directions from the facility.

The project complies with this requirement because the applicant supplied a report to evaluate the proposed communications facility for compliance with appropriate guidelines limiting human exposure to radio frequency (RF) electromagnetic fields. According to the RF report for this project (EBI Consulting; January 8, 2014), the maximum RF emissions from the proposed facility would be equivalent to 0.009 percent of the FCC general public limit (0.0018 percent of the FCC's occupational limit). The report concludes that the facility would operate within the FCC standard for RF emissions. No mitigation other than standard signage requirements is necessary.

Permit Requirements

Section 22.30.180(C)(1) requires Minor Use Permit approval for proposed wireless communications facilities that are either a) installed on existing structures, or b) co-located at existing communications facility sites. Conditional use permit approval is required for all other communications facilities.

The project requires Minor Use Permit approval because the proposed wireless communication facility would be collocated on an existing PG&E utility pole (an existing structure).

Co-location

According to Section 22.30.180(C)(2)(b), when co-location is not proposed, applications for communications facilities must provide information pertaining to the feasibility of joint-use antenna facilities, and discuss the reasons why such joint-use is not a viable option or alternative to a new site.

The project complies with this section because the project would be collocated on an existing structure and, according to the applicant, the project's coverage objective could not be achieved from any of the existing wireless communications facilities in the project vicinity.

Development Standards

According to Section 22.30.180(C)(3)(b), the preferred placement for new wireless communications facilities is on existing structures, completely hidden from public view or painted and blended to match existing structures. In addition, all facilities shall be screened with vegetation or landscaping. Where screening with vegetation is not feasible, facilities shall be disguised to resemble rural, pastoral architecture (e.g. windmills, barns, trees) or other features determined to blend with the surrounding area and be finished in a texture and color deemed unobtrusive to the neighborhood in which it is located.

The proposed facility is consistent with this standard because it would be collocated on an existing structure (PG&E utility pole), which is the highest preference for locating new

communications facilities. As conditioned, the proposed antennas and equipment attached to the power pole shall be painted a matte finish brown color to match the wooden pole. The proposed fenced enclosure (located 200 feet to the north of the utility pole) would be partially visible from Highway 1. Green slats would be placed in the fence to screen the equipment from view and help assimilate the fence into the backdrop vegetation.

The project's visual analysis (Lilburn Corp; January 2015) concluded that the proposed project would result in only a minor adverse change in the visual character of the area and that viewer response for travelers heading north and south along Highway 1 is anticipated to be low.

Unused Facilities

Section 22.30.180(4) requires all obsolete or unused facilities to be removed within 12 months of cessation of communication operations at the site.

The project is consistent with this standard because the applicant is required to enter into a performance agreement and financial instrument for site restoration.

COMMUNITY ADVISORY GROUP COMMENTS

The project was referred to the South County Advisory Council and no response was received.

AGENCY REVIEW

Public Works – Drainage plan required

Environmental Health – Hazardous Materials Business Plan required

APCD – No response

Cal Trans – No response

LEGAL LOT STATUS

The lot was legally created by a deed at a time when that was a legal method of creating lots.

Staff report prepared by Airlin M. Singewald and reviewed by Bill Robeson.